

Calendar No. 437

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> Session

**H. R. 1533**

***AN ACT***

To amend title 18, United States Code, to increase the penalty for escaping from a Federal prison.

JUNE 13, 1996

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 1995

Received; read twice and referred to the Committee on the Judiciary

JUNE 13, 1996

Reported by Mr. HATCH, with an amendment

[Insert the part printed in italic]

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**AN ACT**

To amend title 18, United States Code, to increase the  
penalty for escaping from a Federal prison.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That section 751(a) of title 18, United States Code, is  
4       amended by striking “five” and inserting “10”.

5       **SEC. 2. SHORT TITLE.**

6       *This Act may be cited as the “Sexual Offender Track-*  
7       *ing and Identification Act of 1996”.*

1 **SEC. 3. OFFENDER REGISTRATION.**

2       (a) *ESTABLISHMENT OF FBI DATABASE.*—Subtitle A  
3 of title XVII of the Violent Crime Control and Law Enforce-  
4 ment Act of 1994 (42 U.S.C. 14071) is amended by adding  
5 at the end the following new section:

6 **“SEC. 170102. FBI DATABASE.**

7       “(a) *DEFINITIONS.*—For purposes of this section—

8               “(1) the term ‘FBI’ means the Federal Bureau of  
9 Investigation;

10              “(2) the terms ‘criminal offense against a victim  
11 who is a minor’, ‘sexually violent offense’, ‘sexually  
12 violent predator’, ‘mental abnormality’, and ‘preda-  
13 tory’ have the same meanings as in section  
14 170101(a)(3); and

15              “(3) the term ‘minimally sufficient sexual of-  
16 fender registration program’ means any State sexual  
17 offender registration program that—

18                      “(A) requires the registration of each of-  
19 fender who is convicted of an offense described in  
20 subparagraph (A) or (B) of section 170101(a)(1);

21                      “(B) requires that all information gathered  
22 under such program be transmitted to the FBI  
23 in accordance with subsection (g) of this section;

24                      “(C) meets the requirements for verification  
25 under section 170101(b)(3); and

1           “(D) requires that each person who is re-  
2           quired to register under subparagraph (A) shall  
3           do so for a period of not less than 10 years be-  
4           ginning on the date that such person was re-  
5           leased from prison or placed on parole, super-  
6           vised release, or probation.

7           “(b) *ESTABLISHMENT.*—The Attorney General shall es-  
8           tablish a national database at the Federal Bureau of Inves-  
9           tigation to track the whereabouts and movement of—

10           “(1) each person who has been convicted of a  
11           criminal offense against a victim who is a minor;

12           “(2) each person who has been convicted of a sex-  
13           ually violent offense; and

14           “(3) each person who is a sexually violent preda-  
15           tor.

16           “(c) *REGISTRATION REQUIREMENT.*—Each person de-  
17           scribed in subsection (b) who resides in a State that has  
18           not established a minimally sufficient sexual offender reg-  
19           istration program shall register a current address, finger-  
20           prints of that person, and a current photograph of that per-  
21           son with the FBI for inclusion in the database established  
22           under subsection (b) for the time period specified under sub-  
23           section (d).

24           “(d) *LENGTH OF REGISTRATION.*—A person described  
25           in subsection (b) who is required to register under sub-

1 *section (c) shall, except during ensuing periods of incarcer-*  
 2 *ation, continue to comply with this section—*

3 *“(1) until 10 years after the date on which the*  
 4 *person was released from prison or placed on parole,*  
 5 *supervised release, or probation; or*

6 *“(2) for the life of the person, if that person—*

7 *“(A) has 2 or more convictions for an of-*  
 8 *fense described in subsection (b);*

9 *“(B) has been convicted of aggravated sex-*  
 10 *ual abuse, as defined in section 2241 of title 18,*  
 11 *United States Code, or in a comparable provi-*  
 12 *sion of State law; or*

13 *“(C) has been determined to be a sexually*  
 14 *violent predator.*

15 *“(e) VERIFICATION.—*

16 *“(1) PERSONS CONVICTED OF AN OFFENSE*  
 17 *AGAINST A MINOR OR A SEXUALLY VIOLENT OF-*  
 18 *FENSE.—In the case of a person required to register*  
 19 *under subsection (c), the FBI shall, during the period*  
 20 *in which the person is required to register under sub-*  
 21 *section (d), verify the person’s address in accordance*  
 22 *with guidelines that shall be promulgated by the At-*  
 23 *torney General. Such guidelines shall ensure that ad-*  
 24 *dress verification is accomplished with respect to these*

1        *individuals and shall require the submission of fin-*  
2        *gerprints and photographs of the individual.*

3                “(2) *SEXUALLY VIOLENT PREDATORS.—Para-*  
4        *graph (1) shall apply to a person described in sub-*  
5        *section (b)(3), except that such person must verify the*  
6        *registration once every 90 days after the date of the*  
7        *initial release or commencement of parole of that per-*  
8        *son.*

9                “(f) *COMMUNITY NOTIFICATION.—*

10               “(1) *IN GENERAL.—Subject to paragraph (2), the*  
11        *FBI may release relevant information concerning a*  
12        *person required to register under subsection (c) that*  
13        *is necessary to protect the public.*

14               “(2) *IDENTITY OF VICTIM.—In no case shall the*  
15        *FBI release the identity of any victim of an offense*  
16        *that requires registration by the offender with the*  
17        *FBI.*

18               “(g) *NOTIFICATION OF FBI OF CHANGES IN RESI-*  
19        *DENCE.—*

20               “(1) *ESTABLISHMENT OF NEW RESIDENCE.—For*  
21        *purposes of this section, a person shall be deemed to*  
22        *have established a new residence during any period in*  
23        *which that person resides for not less than 10 days.*

24               “(2) *PERSONS REQUIRED TO REGISTER WITH*  
25        *THE FBI.—Each establishment of a new residence, in-*

cluding the initial establishment of a residence immediately following release from prison, or placement on parole, supervised release, or probation, by a person required to register under subsection (c) shall be reported to the FBI not later than 10 days after that person establishes a new residence.

“(3) *INDIVIDUAL REGISTRATION REQUIREMENT.*—A person required to register under subsection (c) or under a minimally sufficient offender registration program, including a program established under section 170101, who changes address to a State other than the State in which the person resided at the time of the immediately preceding registration shall, not later than 10 days after that person establishes a new residence, register a current address, fingerprints, and a photograph of that person, for inclusion in the appropriate database, with—

“(A) the FBI; and

“(B) the State in which the new residence is established.

“(4) *STATE REGISTRATION REQUIREMENT.*—Any time any State agency in a State with a minimally sufficient sexual offender registration program, including a program established under section 170101, is notified of a change of address by a person required

1       to register under such program within or outside of  
2       such State, the State shall notify—

3               “(A) the law enforcement officials of the ju-  
4               risdiction to which, and the jurisdiction from  
5               which, the person has relocated; and

6               “(B) the FBI.

7       “(5) VERIFICATION.—

8               “(A) NOTIFICATION OF LOCAL LAW EN-  
9               FORCEMENT OFFICIALS.—The FBI shall ensure  
10              that State and local law enforcement officials of  
11              the jurisdiction from which, and the State and  
12              local law enforcement officials of the jurisdiction  
13              to which, a person required to register under  
14              subsection (c) relocates are notified of the new  
15              residence of such person.

16             “(B) NOTIFICATION OF FBI.—A State agen-  
17             cy receiving notification under this subsection  
18             shall notify the FBI of the new residence of the  
19             offender.

20             “(C) VERIFICATION.—

21               “(i) STATE AGENCIES.—If a State  
22               agency cannot verify the address of or locate  
23               a person required to register with a mini-  
24               mally sufficient sexual offender registration  
25               program, including a program established



1           *under section 170101, the State shall imme-*  
2           *diately notify the FBI.*

3           “(ii) *FBI.—If the FBI cannot verify*  
4           *the address of or locate a person required to*  
5           *register under subsection (c) or if the FBI*  
6           *receives notification from a State under*  
7           *clause (I), the FBI shall ensure that, either*  
8           *the State or the FBI shall—*

9                     “(I) *classify the person as being*  
10                    *in violation of the registration require-*  
11                    *ments of the national database; and*

12                   “(II) *add the name of the person*  
13                    *to the National Crime Information*  
14                    *Center Wanted Person File and create*  
15                    *a wanted persons record, provided that*  
16                    *an arrest warrant which meets the re-*  
17                    *quirements for entry into the file is is-*  
18                    *sued in connection with the violation.*

19           “(h) *FINGERPRINTS.—*

20                   “(1) *IN GENERAL.—*

21                   “(A) *FBI REGISTRATION.—For each person*  
22                    *required to register under subsection (c), finger-*  
23                    *prints shall be obtained and verified by the FBI*  
24                    *or a local law enforcement official pursuant to*  
25                    *regulations issued by the Attorney General.*

1                   “(B) *STATE REGISTRATION SYSTEMS.*—*In a*  
2                   *State that has a minimally sufficient sexual of-*  
3                   *fender registration program, including a pro-*  
4                   *gram established under section 170101, finger-*  
5                   *prints required to be registered with the FBI*  
6                   *under this section shall be obtained and verified*  
7                   *in accordance with State requirements. The*  
8                   *State agency responsible for registration shall*  
9                   *ensure that the fingerprints and all other infor-*  
10                  *mation required to be registered is registered*  
11                  *with the FBI.*

12               “(i) *PENALTY.*—*A person required to register under*  
13               *paragraph (1), (2), or (3) of subsection (g) who knowingly*  
14               *fails to comply with this section shall—*

15               “(1) *in the case of a first offense—*

16                   “(A) *if the person has been convicted of 1*  
17                   *offense described in subsection (b), be fined not*  
18                   *more than \$100,000; or*

19                   “(B) *if the person has been convicted of*  
20                   *more than 1 offense described in subsection (b),*  
21                   *be imprisoned for up to 1 year and fined not*  
22                   *more than \$100,000; or*

23               “(2) *in the case of a second or subsequent offense,*  
24               *be imprisoned for up to 10 years and fined not more*  
25               *than \$100,000.*

1       “(j) *RELEASE OF INFORMATION.*—*The information*  
2 *collected by the FBI under this section shall be disclosed*  
3 *by the FBI—*

4               “(1) *to Federal, State, and local criminal justice*  
5 *agencies for—*

6                       “(A) *law enforcement purposes; and*

7                       “(B) *community notification in accordance*  
8 *with section 170101(d)(3); and*

9               “(2) *to Federal, State, and local governmental*  
10 *agencies responsible for conducting employment-relat-*  
11 *ed background checks under section 3 of the National*  
12 *Child Protection Act of 1993 (42 U.S.C. 5119a).”.*

13       “(k) *NOTIFICATION UPON RELEASE.*—*Any state not*  
14 *having established a program described in 170102(a)(3)*  
15 *must—*

16               “(1) *upon release from prison, or placement on*  
17 *parole, supervised release, or probation, notify each*  
18 *offender who is convicted of an offense described in*  
19 *subparagraph (A) or (B) of section 170101(a)(1) of*  
20 *their duty to register with the FBI; and*

21               “(2) *notify the FBI of the release of each offender*  
22 *who is convicted of an offense described in subpara-*  
23 *graph (A) or (B) of section 170101(a)(1).”.*

1 **SEC. 4. DURATION OF STATE REGISTRATION REQUIRE-**  
2 **MENT.**

3 *Section 170101(b)(6) of the Violent Crime Control and*  
4 *Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(6)) is*  
5 *amended to read as follows:*

6 “(6) *LENGTH OF REGISTRATION.*—A person re-  
7 *quired to register under subsection (a)(1) shall con-*  
8 *tinue to comply with this section, except during ensu-*  
9 *ing periods of incarceration, until—*

10 “(A) *10 years have elapsed since the person*  
11 *was released from prison or placed on parole, su-*  
12 *pervised release, or probation; or*

13 “(B) *for the life of that person if that per-*  
14 *son—*

15 “(i) *has 1 or more prior convictions for*  
16 *an offense described in subsection (a)(1)(A);*  
17 *or*

18 “(ii) *has been convicted of an aggra-*  
19 *vated offense described in subsection*  
20 *(a)(1)(A); or*

21 “(iii) *has been determined to be a sexu-*  
22 *ally violent predator pursuant to subsection*  
23 *(a)(2).”.*

24 **SEC. 5. STATE BOARDS.**

25 *Section 170101(a)(2) of the Violent Crime Control and*  
26 *Law Enforcement Act of 1994 (42 U.S.C. 14071(a)(2)) is*

1 *amended by inserting before the period at the end the follow-*  
 2 *ing: “, victim rights advocates, and representatives from*  
 3 *law enforcement agencies”.*

4 **SEC. 6. FINGERPRINTS.**

5 *Section 170101 of the Violent Crime Control and Law*  
 6 *Enforcement Act of 1994 (42 U.S.C. 14071) is amended by*  
 7 *adding at the end the following new subsection:*

8 *“(g) FINGERPRINTS.—Each requirement to register*  
 9 *under this section shall be deemed to also require the sub-*  
 10 *mission of fingerprints of the person required to register,*  
 11 *obtained in accordance with regulations prescribed by the*  
 12 *Attorney General under section 170102(h).”.*

13 **SEC. 7. VERIFICATION.**

14 *Section 170101(b)(3)(A)(iii) of the Violent Crime Con-*  
 15 *trol and Law Enforcement Act of 1994 (42 U.S.C.*  
 16 *14071(b)(3)(A)(iii)) is amended by adding at the end the*  
 17 *following: “The person shall include with the verification*  
 18 *form, fingerprints and a photograph of that person.”.*

19 **SEC. 8. REGISTRATION INFORMATION.**

20 *Section 170101(b)(2) of the Violent Crime Control and*  
 21 *Law Enforcement Act of 1994 (42 U.S.C. 14071(b)(2)) is*  
 22 *amended to read as follows:*

23 *“(2) TRANSFER OF INFORMATION TO STATE AND*  
 24 *THE FBI.—The officer, or in the case of a person*  
 25 *placed on probation, the court, shall, within 3 days*

1       *after receipt of information described in paragraph*  
2       *(1), forward it to a designated State law enforcement*  
3       *agency. The State law enforcement agency shall im-*  
4       *mediately enter the information into the appropriate*  
5       *State law enforcement record system and notify the*  
6       *appropriate law enforcement agency having jurisdic-*  
7       *tion where the person expects to reside. The State law*  
8       *enforcement agency shall also immediately transmit*  
9       *all information described in paragraph (1) to the*  
10       *Federal Bureau of Investigation for inclusion in the*  
11       *FBI database described in section 170102.”.*

12   **SEC. 9. IMMUNITY FOR GOOD FAITH CONDUCT.**

13       *State and Federal law enforcement agencies, employees*  
14       *of State and Federal law enforcement agencies, and State*  
15       *and Federal officials shall be immune from liability for*  
16       *good faith conduct under section 170102.*

17   **SEC. 10. REGULATIONS.**

18       *Not later than 1 year after the date of enactment of*  
19       *this Act, the Attorney General shall issue regulations to*  
20       *carry out this Act and the amendments made by this Act.*

21   **SEC. 11. EFFECTIVE DATE.**

22       *(a) IN GENERAL.—This Act and the amendments*  
23       *made by this Act shall become effective 1 year after the date*  
24       *of enactment of this Act.*

1       (b) *COMPLIANCE BY STATES.*—Each State shall imple-  
 2       ment the amendments made by sections 3, 4, 5, 6, and 7  
 3       of this Act not later than 3 years after the date of enactment  
 4       of this Act, except that the Attorney General may grant an  
 5       additional 2 years to a State that is making good faith  
 6       efforts to implement such amendments.

7       **SEC. 12. SEVERABILITY.**

8       If any provision of this Act, an amendment made by  
 9       this Act, or the application of such provision or amendment  
 10      to any person or circumstance is held to be unconstitu-  
 11      tional, the remainder of this Act, the amendments made by  
 12      this Act, and the application of the provisions of such to  
 13      any person or circumstance shall not be affected thereby.

14      **SEC. 13. COMPUTER CRIME.**

15      Section 1030 of title 18, United States Code, is amend-  
 16      ed—

17               (1) in subsection (a)—

18                       (A) in paragraph (1)—

19                               (i) by striking “knowingly accesses”  
 20                               and inserting “having knowingly accessed”;

21                               (ii) by striking “exceeds” and inserting  
 22                               “exceeding”;

23                               (iii) by striking “obtains information”  
 24                               and inserting “having obtained informa-  
 25                               tion”;

1                   (iv) by striking “the intent or”;

2                   (v) by striking “is to be used” and in-  
3                   serting “could be used”; and

4                   (vi) by inserting before the semicolon  
5                   at the end the following: “willfully commu-  
6                   nicates, delivers, transmits, or causes to be  
7                   communicated, delivered, or transmitted, or  
8                   attempts to communicate, deliver, transmit  
9                   or cause to be communicated, delivered, or  
10                  transmitted the same to any person not en-  
11                  titled to receive it, or willfully retains the  
12                  same and fails to deliver it to the officer or  
13                  employee of the United States entitled to re-  
14                  ceive it”;

15                  (B) in paragraph (2)—

16                   (i) by striking “obtains information”  
17                   and inserting “obtains—  
18                   “(A) information”; and

19                   (ii) by adding at the end the following  
20                   new subparagraphs:

21                   “(B) information from any department or  
22                   agency of the United States; or

23                   “(C) information from any protected com-  
24                   puter if the conduct involved an interstate or for-  
25                   eign communication;”;



1 (C) in paragraph (3)—

2 (i) by inserting “nonpublic” before

3 “computer of a department or agency”;

4 (ii) by striking “adversely”; and

5 (iii) by striking “the use of the Govern-

6 ment’s operation of such computer” and in-

7 serting “that use by or for the Government

8 of the United States”;

9 (D) in paragraph (4)—

10 (i) by striking “Federal interest” and

11 inserting “protected”; and

12 (ii) by inserting before the semicolon

13 the following: “and the value of such use is

14 not more than \$5,000 in any 1-year pe-

15 riod”;

16 (E) by striking paragraph (5) and inserting

17 the following:

18 “(5)(A) knowingly causes the transmission of a

19 program, information, code, or command, and as a

20 result of such conduct, intentionally causes damage

21 without authorization, to a protected computer;

22 “(B) intentionally accesses a protected computer

23 without authorization, and as a result of such con-

24 duct, recklessly causes damage; or

1           “(C) intentionally accesses a protected computer  
2 without authorization, and as a result of such con-  
3 duct, causes damage;”; and

4           (F) by inserting after paragraph (6) the fol-  
5 lowing new paragraph:

6           “(7) with intent to extort from any person, firm,  
7 association, educational institution, financial institu-  
8 tion, government entity, or other legal entity, any  
9 money or other thing of value, transmits in interstate  
10 or foreign commerce any communication containing  
11 any threat to cause damage to a protected computer;”;

12           (2) in subsection (c)—

13           (A) in paragraph (1), by striking “such  
14 subsection” each place that term appears and in-  
15 serting “this section”;

16           (B) in paragraph (2)—

17           (i) in subparagraph (A)—

18           (I) by inserting “, (a)(5)(C),”  
19 after “(a)(3)”; and

20           (II) by striking “such subsection”  
21 and inserting “this section”;

22           (ii) by redesignating subparagraph (B)  
23 as subparagraph (C);

24           (iii) by inserting immediately after  
25 subparagraph (A) the following:

1           “(B) a fine under this title or imprison-  
 2           ment for not more than 5 years, or both, in the  
 3           case of an offense under subsection (a)(2), if—

4                   “(i) the offense was committed for pur-  
 5                   poses of commercial advantage or private fi-  
 6                   nancial gain;

7                   “(ii) the offense was committed in fur-  
 8                   therance of any criminal or tortious act in  
 9                   violation of the Constitution or laws of the  
 10                  United States or of any State; or

11                  “(iii) the value of the information ob-  
 12                  tained exceeds \$5,000;” and

13                  (iv) in subparagraph (C) (as redesign-  
 14                  ated)—

15                   (I) by striking “such subsection”

16                   and inserting “this section”; and

17                   (II) by adding “and” at the end;

18                  (C) in paragraph (3)—

19                   (i) in subparagraph (A)—

20                           (I) by striking “(a)(4) or

21                           (a)(5)(A)” and inserting “(a)(4),

22                           (a)(5)(A), (a)(5)(B), or (a)(7)” and

23                           (II) by striking “such subsection”

24                           and inserting “this section”; and

25                           (ii) in subparagraph (B)—

1                   (I) by striking “(a)(4) or (a)(5)”

2                   and inserting “(a)(4), (a)(5)(A),

3                   (a)(5)(B), (a)(5)(C), or (a)(7)”; and

4                   (II) by striking “such subsection”

5                   and inserting “this section”; and

6                   (D) by striking paragraph (4);

7                   (3) in subsection (d), by inserting “subsections

8                   (a)(2)(A), (a)(2)(B), (a)(3), (a)(4), (a)(5), and (a)(6)

9                   of” before “this section.”;

10                  (4) in subsection (e)—

11                  (A) in paragraph (2)—

12                  (i) by striking “Federal interest” and

13                  inserting “protected”;

14                  (ii) in subparagraph (A), by striking

15                  “the use of the financial institution’s oper-

16                  ation or the Government’s operation of such

17                  computer” and inserting “that use by or for

18                  the financial institution or the Govern-

19                  ment”; and

20                  (iii) by striking subparagraph (B) and

21                  inserting the following:

22                  “(B) which is used in interstate or foreign

23                  commerce or communication;”;

24                  (B) in paragraph (6), by striking “and” at

25                  the end;

1           (C) in paragraph (7), by striking the period  
2           at the end and inserting “; and”; and

3           (D) by adding at the end the following new  
4           paragraphs:

5           “(8) the term ‘damage’ means any impairment  
6           to the integrity or availability of data, a program, a  
7           system, or information, that—

8                 “(A) causes loss aggregating at least \$5,000  
9                 in value during any 1-year period to one or  
10                more individuals;

11               “(B) modifies or impairs, or potentially  
12                modifies or impairs, the medical examination,  
13                diagnosis, treatment, or care of one or more in-  
14                dividuals;

15               “(C) causes physical injury to any person;  
16                or

17               “(D) threatens public health or safety; and

18           “(9) the term ‘government entity’ includes the  
19           Government of the United States, any State or politi-  
20           cal subdivision of the United States, any foreign  
21           country, and any state, province, municipality, or  
22           other political subdivision of a foreign country.”; and

23           (5) in subsection (g)—

24                (A) by striking “, other than a violation of  
25                subsection (a)(5)(B),”; and

1                   (B) by striking “of any subsection other  
 2                   than subsection (a)(5)(A)(ii)(II)(bb) or  
 3                   (a)(5)(B)(ii)(II)(bb)” and inserting “involving  
 4                   damage as defined in subsection (e)(8)(A)”.

5 **SEC. 14. CHILD PROTECTION ACT AMENDMENTS.**

6           Section 3(e) of the National Child Protection Act of  
 7 1993 (42 U.S.C. 5119a(e)) is amended to read as follows:

8           “(e) *FEES.*—

9                   “(1) *IN GENERAL.*—The fees collected by the au-  
 10                   thorized State agencies and the Federal Bureau of In-  
 11                   vestigation, respectively, may not exceed—

12                           “(A) \$5, or 50 percent of the actual cost,  
 13                           whichever is greater, of the background check  
 14                           conducted with fingerprints in relation to a  
 15                           background check conducted pursuant to a State  
 16                           requirement adopted after September 1, 1996,  
 17                           with respect to a volunteer provider; and

18                           “(B) \$18, or the actual cost, whichever is  
 19                           less, of the background check conducted with fin-  
 20                           gerprints, plus any surcharge charged pursuant  
 21                           to paragraph (2) in relation to a background  
 22                           check conducted pursuant to a State requirement  
 23                           adopted after September 1, 1996, with respect to  
 24                           a nonvolunteer provider.

1           “(2) *USER FEE SURCHARGE.*—*In the case of a*  
2           *background check conducted pursuant to a State re-*  
3           *quirement adopted after September 1, 1996, with re-*  
4           *spect to a nonvolunteer provider, a special user fee*  
5           *surcharge for the background check may be collected*  
6           *by the authorized State agencies and the Federal Bu-*  
7           *reau of Investigation, in an amount equal to not*  
8           *more than 75 percent of the fee charged pursuant to*  
9           *paragraph (1)(B).”.*